

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

REGINALD CLAY,

Plaintiff,

vs.

UNION PACIFIC RAILROAD COMPANY,

Defendant.

Case No. 1:24-cv-4194

District Judge Georgia N. Alexakis

Magistrate Judge Jeffrey N. Cole

JOINT STATUS REPORT

Pursuant to this Court's April 11, 2025, Order (Dkt. 57), Plaintiff Reginald Clay ("Plaintiff") and Defendant Union Pacific Railroad Company ("Union Pacific"), by and through their undersigned counsel, respectfully submit this joint status report on their progress toward meeting the June 6, 2025 deadline for completion of all non-expert fact discovery.

1. On April 17, 2024, Plaintiff filed a Complaint against Union Pacific alleging violations of the Illinois Biometric Information Privacy Act ("BIPA"). Dkt. 1-1. On May 21, 2024, Union Pacific removed the case to this Court. Dkt. 1, 7.

2. On September 27, 2024, Union Pacific filed an Answer and Defenses. Dkt. 31.

3. On November 4, 2024, Union Pacific filed a Motion for Partial Summary Judgment or, in the Alternative, to Strike. Dkt. 37. Plaintiff filed a response in opposition to Union Pacific's motion on December 2, 2024. Dkt. 42. Union Pacific filed a reply on December 16, 2024. Dkt. 44. The Court denied the Motion on April 10, 2025. Dkt. 55. On May 8, 2025, Union Pacific filed a Motion to Certify the Court's April 10, 2025 Order for Interlocutory Appeal. Dkt. 58.

4. The parties propounded their First Sets of Discovery Requests and received the opposing party's responses and objections. Plaintiff propounded a Second Set of Discovery Requests and received Union Pacific's responses and objections.

5. On February 5, 2025, the parties' counsel met to discuss the discovery responses received to date.

6. On March 12, 2025, the parties submitted an Agreed Motion to Enter Confidentiality Order. Dkt. 49. On March 13, 2025, the Court granted this motion and entered the parties' Agreed Confidentiality Order. Dkt. 53.

7. On March 26, 2025, the parties' counsel met and conferred telephonically to discuss the possibility of settlement and next steps regarding supplementation of Union Pacific's discovery responses.

8. On March 31, 2025, Union Pacific produced documents in response to Plaintiff's discovery requests.

9. On April 11, 2025, Union Pacific served its First Supplemental Responses to Plaintiff's Second Discovery Requests.

10. On April 18, 2025, Union Pacific produced additional documents in response to Plaintiff's discovery requests.

11. On May 6, 2025, Plaintiff served his Supplemental Responses to Defendant's First Set of Interrogatories.

12. On May 7, 2025, Union Pacific served its First Set of Requests for Admissions.

13. As stated above, on May 8, 2025, Union Pacific filed a Motion to Certify the Court's April 10, 2025 Order for Interlocutory Appeal. Dkt. 58.

14. The parties set forth their respective positions regarding the case schedule:

Plaintiff's Position: Plaintiff intends to subpoena Universal Trucking and XPO Logistics for additional documentation related to his entry and exit of the Union Pacific facilities. Based on the contents of Union Pacific's First Supplemental Responses and supplemental document production, Plaintiff also intends to serve Union Pacific with his Third Discovery Requests. Plaintiff believes this will be the final set of discovery requests issued. Last, Plaintiff intends to notice 2 to 3 depositions. Accordingly, Plaintiff requests extending the current deadline for fact discovery to be completed by 90 days to September 4, 2025. Plaintiff submits that Union Pacific's recent motion for interlocutory appeal is lacking in merit and opposes its request to stay the matter pending resolution thereof.

Union Pacific's Position: Union Pacific requests that all case deadlines be stayed until after the Court rules on Union Pacific's motion seeking interlocutory appeal of the Court's April 10, 2025 order ("Motion"). Dkt. 58. Union Pacific respectfully submits that if the Court and Seventh Circuit grant Union Pacific's request for interlocutory appeal, all case deadlines should remain stayed until after a ruling from the Seventh Circuit. In its Motion, Union Pacific seeks interlocutory appeal of whether the 2024 amendment to the Illinois Biometric Information Privacy Act, 740 ILCS 14/1 *et seq.*—which limits a plaintiff to "one recovery" when a defendant wrongfully collects their biometric identifier or information more than once using the same method, *see* Ill. Public Act 103 0769—applies retroactively to pending cases. A ruling in Union Pacific's favor on this issue would materially shape the stakes of the case and thus the course of this litigation, including further fact and expert discovery, summary judgment briefing, and trial—as well as the prospects for settlement.

Dated: May 9, 2025

/s/ Alexandra Huzyk (with consent)

Daniel A. Edelman
Dulijaza (Julie) Clark
Alexandra Huzyk
EDELMAN, COMBS, LATTURNER
& GOODWIN, LLC
20 S Clark Street, Suite 1800
Chicago, IL 60603
(312) 739-4200
(312) 419-0379 (FAX)
courtecl@edcombs.com

Counsel for Plaintiff

Respectfully submitted,

/s/ Johanna Spellman

Sean M. Berkowitz
Gary Feinerman
Johanna Spellman
Kathryn A. Running
LATHAM & WATKINS LLP
330 N Wabash Avenue, Suite 2800
Chicago, IL 60611
sean.berkowitz@lw.com
gary.feinerman@lw.com
johanna.spellman@lw.com
kathryn.running@lw.com

*Counsel for Union Pacific Railroad
Company*

CERTIFICATE OF SERVICE

I, Johanna, Spellman, hereby certify that on May 9, 2025, I caused a copy of the foregoing to be filed using the Court's CM/ECF system, which provides service to all counsel of record.

Dated: May 9, 2025

/s/ Johanna Spellman

Johanna Spellman, One of the Attorneys for
Defendant Union Pacific Railroad Company

Johanna Spellman (Illinois Bar No.
6293851)
LATHAM & WATKINS LLP
330 North Wabash Avenue, Suite 2800
Chicago, Illinois 60611
Telephone: (312) 876-7700
Facsimile: (312) 993-9767
Email: johanna.spellman@lw.com